

Subject: RE: 5th Request for Public Information - Request For Proposals To Lease Property - AMENDED.

Date: Wed, 22 Apr 2015 03:36:36 +0000

From: Ira Dove <IDove@haywoodnc.net>

To: Monroe Miller , Stoney Blevins <tsblevins@haywoodnc.net>, Candace Way <ecway@haywoodnc.net>, Claire Carleton <ccarleton@haywoodnc.net>

CC: Chip Killian <CKillian@haywoodnc.net>, Leon Chip Killian <chip.killian@nelsonmullins.com>, L. Kevin. Ensley <lkensley@bellsouth.net>, Mark S. Swanger <markswanger@bellsouth.net>, Michael T. Sorrells <sorrells@cbvnol.com>, Bill L. Upton <billupton@bellsouth.net>, J W. Kirkpatrick <kirk@jwkllaw.net>, David Francis <DBFrancis@haywoodnc.net>, Vicki Hyatt <vhyatt@themountaineer.com>, Kevin Fuller <kfuller@themountaineer.com>, Becky Johnson <becky@smokymountainnews.com>, Jonnie Cure , Eddie Cabe , Sheriff Greg Christopher <GChristopher@haywoodnc.net>, Denny King, Bill Hollingsed <wpdchief@waynesvillepd.com>, Kathi McClure <KMcClure@haywoodnc.net>

7 files have been attached via Copy

The attachments will be accessible until Thu May 21 23:37:09 2015 (EDT).

6-6-11 fully executed J Creek Property lease 06\_01\_11-05\_31\_15 C Medford signed by SWANGER MEDFORD and STAMEY.pdf

2010 bid info.pdf

2015 Jonathan Creek property bid results.pdf

J Creek Bid opening 1-25-11.pdf

J Creek Bids 4-1-09.pdf

Medford H Co J Ck lease 2010-11.pdf

ROSS lease agreement SIGNED 4-20-09.pdf

[View All Attachments](#)

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Mr. Miller,

This is in response to the following request regarding the County owned property referenced as PIN # 8607-27-9452. Attached are the files of which I am aware that meet this request.

To clarify "same original requested content," as to the other later requested items, are you requesting the lease records and bids related to the parcels referenced as PIN 8637-81-6407 and 8637-42-1058?

Please note, that due to my work on the upcoming budget, and other duties, that I will not be available to work on this request for a minimum of ten to fifteen business days.

Ira Dove  
County Manager  
Haywood County Government  
215 N. Main St.  
Waynesville, North Carolina 28786  
(828) 452-6625 office  
(828) 452-6715 FAX  
idove@haywoodnc.net  
county\_seal3a1 small

Pursuant to North Carolina General Statutes Chapter 132, Public Records, this electronic mail message and any attachments hereto, as well as any electronic mail message(s) sent in response to it, may be considered public record and as such are subject to request and review by anyone at any time.

6-6-11 fully executed J Creek Property lease 06\_01\_11-05\_31\_15 C Medford signed by SWANGER  
MEDFORD and STAMEY(1).pdf

**PROPERTY LEASE**

NORTH CAROLINA

HAYWOOD COUNTY

**THIS LEASE AGREEMENT** (this "Lease"), made and entered into this 31<sup>st</sup> day of May, 2011, by and between HAYWOOD COUNTY, a subdivision of the State of North Carolina and a body politic and corporate ("Lessor") and **Charles Frank Medford and (wife) Sarah S. Medford** ("Lessee"):

W I T N E S S E T H:

WHEREAS, Lessor acquired the real estate described on Appendix I, attached hereto and incorporated herein by reference (the "Premises"); and

WHEREAS, Lessor intends to own the property perpetually and to eventually develop the Premises as a sports complex; and

WHEREAS, Lessee desires to lease the Premises and has offered to keep and maintain the same as open space or wetlands management use including cultivation and agricultural use; and

WHEREAS, Lessor has agreed to lease the Premises to Lessee subject to the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the rent stated herein and the covenants, terms, and conditions hereinafter set forth, Lessor does hereby let, lease, and demise unto Lessee and Lessee does hereby rent and lease from Lessor the Premises described on Appendix I.

This Lease is executed upon the following terms and conditions:

1. Term. The term of this Lease shall commence on the **1st day of June, 2011** (the "Commencement Date") and, unless sooner terminated as herein provided, shall exist and continue until the **31st day of May, 2015** (the "Expiration Date"); provided, however, notwithstanding any other provision of this Lease, Lessor or Lessee shall have the right to terminate this Lease at any time upon not less than ninety (90) days written notice to the other. Such notice of termination shall specify a termination date, which shall not be less than ninety (90) days from the date the notice is given, and this Lease shall terminate on the date so specified, provided that said notice is given on or after November 15<sup>th</sup> and before March 15<sup>th</sup> of any given year. If Lessor terminates prior to end of lease Lessor will prorate the remainder of the one year term at the time of notification of termination of the lease and provide refund for rental period of the one year term only not utilized by Lessee. Lessee shall not buyout the remainder of the entire lease. If Lessee terminates there shall be no refund.
2. Rent. Lessee shall pay rent to Lessor in the amount of **\$3,696** annually in advance for the use of the Premises.

3. Renewal. This Lease shall be renewable for successive terms as agreed to by the parties hereto.

4. Lessor's Obligations. Lessor is leasing the Premises to Lessee in "as is condition" and makes no representations, express or implied, that the Premises is suitable for the use permitted by this Lease, or any other use. Lessor shall have no obligation of any kind, sort, or nature with regard to the Premises, nor shall Lessor have any obligation to make any payment or invest any money in, or take any other action with respect to the Premises.

5. Use of the Premises. The Premises are to be used and occupied by Lessee solely as open space and wetlands management use including but not limited to cultivation and recreational uses as a corn maze. Lessee shall at all times fully and properly comply with all laws, ordinances, and regulations governing the use of the Premises enacted or adopted by every lawful authority having jurisdiction over the same. Lessor reserves the right and privilege to enter upon and use the Premises for planning, engineering, and/or for other purposes not inconsistent with the aforesaid use of the Premises. Lessor agrees not to damage or harm Lessee's crop or interfere with Lessee's business and will give Lessee reasonable notice and arrange a time for said entrance.

6. Rules Governing the Use of the Premises. The following rules and regulations shall govern the use of the Premises by Lessee:

(a) Lessee shall not erect any permanent building, fencing, or structure on the Premises or install any impervious surface, including, without limitation, a paved area or a concrete pad except that Lessee may bring onto the Premises temporary storage building, concessions trailer, and temporarily lighting consistent with Lessee's use as a corn maze.

(b) Lessee shall not erect or post any signs on the Premises, except for "No Trespassing" signs and signs advertising the corn maze and directional signs for assisting the public. All signs to be approved by Lessor before erection.

(c) Lessee shall not excavate any soil or other surface or subsurface material from the Premises.

(d) Lessee shall not remove any tree, other natural growth, or any natural object from the Premises unless first approved in writing by Lessor, which approval may be withheld in Lessor's sole discretion.

(e) Lessee shall not build any fires or permit any burning on the Premises except burning consistent with Haywood County ordinances and permitting notice shall be provided to Lessor of the type and nature of the burning prior to Lessee's conducting such activity.

(f) Lessee shall not cause or permit any improper noises on the Premises or allow any unpleasant odors to emanate from the Premises or otherwise annoy in any way other residents in the area.

(g) Lessee shall not alter the topography of Premises in any way and shall not fill in any part of the Premises with any material, including, without limitations, dirt, rocks, or brush.

(h) Lessee shall not cause or permit Hazardous Material (as hereinafter defined) to be brought upon, kept or used in and about the Premises by Lessee, his/her, or their agents, employees, contractors, or invitees. As used herein the term "Hazardous Material" means any hazardous or toxic substance, material or waste, including, but not limited to, those substances, materials, and waste listed in the United States Department of Transportation Hazardous Materials Table (49 CFR 172.01) or by the Environmental Protection Agency as hazardous substance pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 as amended (42 U.S.C. § 9601 *et seq.*), and any regulations promulgated thereunder and amendments thereto, and shall include all substances, materials, and waste that are or become regulated under any other applicable local, state, or federal law. Hazardous Material shall also extend to and include any substances prohibited under standard forms of fire insurance policy.

(i) Lessee shall not use the Premises for the purpose of housing or maintaining animals.

7. Assignment or Sublease. Lessee shall not voluntarily (i) assign or in any manner transfer this Lease or any estate or interest therein, (ii) permit any assignment of this Lease or any estate or interest therein by operation of law or otherwise, (iii) sublet the Premises or any part thereof, (iv) grant any license, concession or other right of occupancy of any portion of the Premises, or (v) permit the use of the Premises by any parties, other than Lessee. Lessee shall not mortgage, pledge or otherwise encumber Lessee's interest in this Lease or in the Premises.

8. Release and Indemnity. To the fullest extent permitted by law, Lessee shall release, indemnify, keep and save harmless Lessor, Lessor's agents, officials, and employees, from any and all responsibility or liability for any and all damage or injury of any kind or nature whatever (including death resulting therefrom) to all persons, whether agents, officials, and employees of Lessor, Lessee, or third persons, and to all property (including the property of Lessee) caused by, instituted, resulting from, rising out of, or accruing in connection with, directly or indirectly, the use or occupancy of the Premises by Lessee (or by any person who may be acting for Lessee or for whom Lessee is or is alleged to be in any way responsible), whether such claim may be based in whole or in part upon contract, tort (including alleged active or passive negligence or participation in the wrong), or upon any alleged breach of any duty or obligation on the part of Lessee, Lessee's agents, employees, or invitees, or otherwise. The provisions of this paragraph shall include any claim for equitable relief or damages (compensatory or punitive) against Lessor, Lessor's agents, officials, and employees, including alleged injury to the business of any claimant and shall include any and all losses, damages, injuries, settlements, judgments, decrees, awards, fines, penalties, claims, cost, and expenses. Expenses as used herein shall include, without limitation, the cost incurred by Lessor, Lessor's agents, officials, and employees, in connection with investigating any claim or defending any action, and shall also include attorneys' fees by reason of the assertion of any such claim against Lessor, Lessor's agents, officials, or employees. Lessee expressly understands and agrees that any insurance protection required by this Lease, or otherwise provided by Lessee, will in no way limit Lessee's responsibility to release, indemnify, keep and save harmless and defend Lessor as provided herein. The intention of the parties is to apply and construe this Release and Indemnity broadly in favor of Lessor.

9. **INSURANCE.** The Lessee shall purchase and maintain at its own expense the following insurance covering its operation for the duration of this agreement, a copy of which is to be provided with the initial proposal to the County via its Recreation and Parks Department:

i) **General Liability** – Bodily and property damage liability as shall protect the Co-Sponsor and any subcontractor performing work under this agreement from claims of bodily injury and property damage which arise from the operations of this agreement whether such operations are performed by Lessee, any subcontractor or any one directly or indirectly employed by either. The amounts of such insurance shall not be less than one million dollars (\$1,000,000.00) bodily injury each occurrence/aggregate, or one million dollars (\$1,000,000.00) property damages each occurrence/aggregate, or one million dollars(\$1,000,000.00) bodily injury and property damage combined single limits each occurrence/aggregate. This insurance shall include coverage for products, completed operations, personal injury liability and contractual liability.

10. **Default.** Lessee's failure to (i) use the Premises as provided in the Lease, (ii) comply with the rules and regulations governing of the use of the Premises, (iii) provide and keep in force the required insurance, or (iv) comply with any other term or condition of this Lease shall constitute an Event of Default. Upon the occurrence of an Event of Default Lessor shall notify Lessee in writing of such default and if the Event of Default has not been cured or corrected within fifteen (15) days of the giving of such notice this Lease shall automatically terminate.

11. **Notices.** All notices given hereunder shall be made in writing. Such notices shall be deemed given when personally delivered or deposited in the United States mail, certified or registered mail, postage prepaid, addressed to the respective party at the address shown below unless a different address shall have been provided in writing:

If to Lessor: Haywood County  
215 North Main Street  
Waynesville, North Carolina 28786  
Attention: Marty Stamey, County Manager

If to Lessee: Mr. and Mrs. Charles and Sarah Medford  
52 Joe Medford Road  
Waynesville, NC 28785

12. **No Waiver.** Lessor's failure to enforce or delay in enforcing any of the provisions, rights, or remedies in this Lease shall not be a waiver nor in any way affect the validity of this Lease or any part hereof, or the right of Lessor to enforce each and every provision, right, or remedy contained herein. No waiver of any breach of any provision of this Lease shall be held to be a waiver of any other subsequent breach of the same or any other provision.

13. **Entire Agreement.** This Lease sets forth all of the covenants, promises, agreements, conditions, and understandings between Lessor and Lessee concerning the Premises. Lessee shall make no claim on account of any alleged representations contained in prior discussions,

correspondence, or other documents, not set forth in this Lease. This Lease shall not be altered, amended, or changed except by a written document executed by Lessor and Lessee.

14. Time is of the essence. Time is of the essence of this Lease and the performance of all obligations hereunder.

IN WITNESS WHEREOF, Lessor and Lessee have executed this Lease as of the day and year first written above.

LESSOR:

HAYWOOD COUNTY

By: Mark Swanger  
Mark S. Swanger  
Chairman, Board of Commissioners

ATTEST:

Marty Starney  
Marty Starney, County Manager

(SEAL)

LESSEE:

Charles F Medford (SEAL)  
Sarah Medford (SEAL)



STATE OF NORTH CAROLINA

COUNTY OF HAYWOOD

I, Rebecca Morgan Notary of said State and County, do hereby certify that MARTY STAMEY, personally appeared before me this day and acknowledged that he is Clerk to the Board of County Commissioners of Haywood County, a body politic and corporate, and that by authority duly given and as the act of the said Board, the foregoing instrument was signed in its name by its Chairman, sealed with its corporate seal and attested by himself as its Clerk.

WITNESS my hand and official seal this the 6<sup>th</sup> day of June, 2011.

Rebecca Morgan  
Notary Public

Rebecca Morgan  
Printed Name of Notary Public

My Commission Expires:

4/14/13  
[Official Seal]

STATE OF NORTH CAROLINA

COUNTY OF HAYWOOD

I, the undersigned, a Notary Public of the aforesaid County and State, do hereby certify that **Charles Frank Medford** personally appeared before me this day and acknowledged the due execution of the foregoing Lease Agreement.

Witness my hand and official stamp or seal, this 31<sup>st</sup> day of May, 2011.

Rebecca Morgan  
Notary Public

Rebecca Morgan  
Printed Name of Notary Public

My Commission Expires:

4/14/13  
[Official Seal]

STATE OF NORTH CAROLINA

COUNTY OF HAYWOOD

I, the undersigned, a Notary Public of the aforesaid County and State, do hereby certify that **Sarah S. Medford** personally appeared before me this day and acknowledged the due execution of the foregoing Lease Agreement.

Witness my hand and official stamp or seal, this ~~31~~ day of May, 2011.

Rebecca Morgan  
Notary Public

Rebecca Morgan  
Printed Name of Notary Public

My Commission Expires:

4/14/13  
[Official Seal]

2010 bid info.pdf

## Jonathan Creek Property Bid

05/07/10 Charles Medford \$1,980 (\$90/acre)

Opened May 7, 2010

Claire Carleton

Mary Hydrick, witness

Legal Ads published 4/9/10 and 4/30/10

### Medford Dairy Farm

52 Joe Medford Road  
Waynesville, NC 28785  
828-627-6766 (office)  
828-593-9230 (cell)

May 7, 2010

To Whom It May Concern:

I am very interested in leasing the 22 acres of property located in the Jonathon Creek area. My bid for this property is \$90.00 per acre for one years lease for a total of \$1980.00. I would use the land to grow corn silage and small grain hay for my own farm's use. If you have any questions or concerns please feel free to contact me anytime at 828-627-6766 or 828-593-9230.

Sincerely,

*Charles F Medford*

Charles Medford  
Owner/Manager

### Request For Proposal

Haywood County is seeking proposals for the lease of approximately 22 acres it owns. The property is described at PIN # 8607-27-9452 and is off Highway 276 near Potts Drive in the Jonathan Creek area. The lease will be for a term of one year and is limited to cultivation activities. To review a copy of the proposed lease terms, please contact Claire Carleton, Haywood County Recreation Director at 452-6789, 81 Elmwood Way, Waynesville, NC 28786. Written bids must be received by Ms. Carleton prior to May 7, 2010.  
No. 29181 April 30, 2010

*Claire Carleton 5/7/10*  
*M. Hydrick 5/7/10*

CLIPPING OF LEGAL  
ADVERTISEMENT

A Request For  
Proposal

Haywood County is seeking proposals for the lease of approximately 22 acres it owns. The property is described as PIN # 8607-27-9452 and is off Highway 276 near Potts Drive in the Jonathon Creek area. The lease will be for a term of one year and is limited to cultivation activities. To review a copy of the proposed lease terms, please contact Claire Carleton, Haywood County Recreation Director at 452-6789, 81 Elmwood Way, Waynesville, NC 28786. Written bids must be received by Ms. Carleton prior to April 19, 2010.

No. 29136 April 9,  
2010

2015 Jonathan Creek property bid results.pdf

Jonathon Creek Lease

Bid Opening 3/30/15

Keith Green \$4000

Dan Ross \$5555.55

Charles Medford \$ ~~228~~ cc  
\$ 2860.

10:35AM Colare Carleton 3/30/15

Condo Way



Scanned  
3/30/15 and  
4/15/15

This is Dan Ross

I am Bidding on Land on Johnathon creek  
to grow corn and wheat.

My Bid is 5,555.55

Thank you Dan Ross

Dan Ross

J. Creek

734-3657

Received  
12:50pm  
3/30/15  
Le Parlette

Keith Green

828-226-2496

I Bid \$ 4000.00 ON  
22 Acres Track on Jonathan  
Creek for 2015 year

Keith Green

Johnny Keith Green

288 Turkeypen Rd  
Maggie Valley NC 28785

3/27/15 4:08

E. Bartlett

Bid For Jonathan Creek prop.

March 26, 2015

Charles Medford  
Medford Dairy Farm  
52 Joe Medford Road  
Waynesville, NC 28785

To whom it may concern

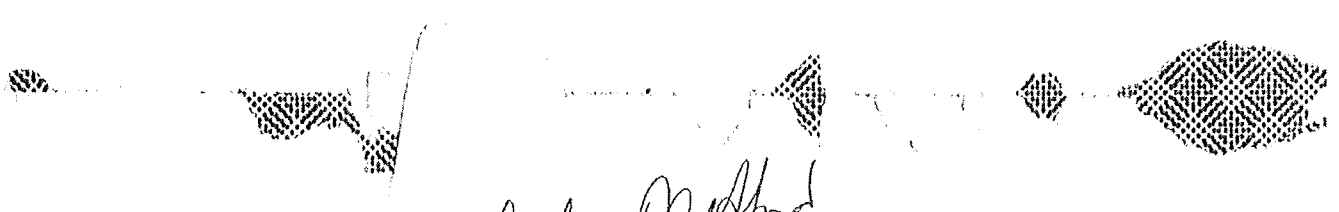
I am interested in acquiring a one- year lease on the twenty-two acre tract of land owned by Haywood County located in the Johnathon Creek area.

My bid for this lease is \$130 per acre for a total of \$2860.00.

Sincerely

*Charles F Medford*

Charles F Medford



*Charles Medford  
received*

*3:27pm*

*3/27/15*

*C. Carlton*

*Claire Carlton  
Johnathon Creek Bid*

*593-9230*

J Creek Bid opening 1-25-11.pdf

# Jonathan Creek Property Bid Opening

Received

1/24 12:43 1.

1/25 1:59 2.

1/25 2:08 3.

3696/yr.

Charles Mesford 168/ac. offered 2:33 1/25/11

Ronnie James 5000/22ac total offered 2:34

Dan Ross 2895/yr. 2:35

Witnesses

Clair Carleton 1/25/11

Mary Lybelle 1/25/11

## Medford Dairy Farm



52 Joe Medford Road  
Waynesville, NC 28785  
828-627-6766 (office)  
828-593-9230 (cell)

January 25, 2011

To Whom It May Concern:

I am very interested in continuing my lease of the 22 acres of property located in the Jonathon Creek area. My current bid for this property is \$168.00 per acre for a total of \$3696 per year for an undetermined multi-year lease. I would use the land to grow corn silage and small grain hay for my own farm's use. If you have any questions or concerns please feel free to contact me anytime at 828-627-6766 or 828-593-9230.

Sincerely,

*Charles Medford*

Charles Medford  
Owner/Manager

1/25/11

Ronnie and Kathy James bids the amount of \$5,000.00  
for the Jonathan Creek property.

However, if we are the winning bid and Dan Ross' bid is second highest bidder we forfeit our bid.

Ronnie James  
Kathy James

I would like to rent the county  
property on Johnathon Creek to  
grow corn + wheat for as many years  
as I CAN I will pay \$2895.00 per year,

Thank you, Dan Ross  
734-3657







### Jonathan Creek Property Bids

3/30/2009	Dan Ross	\$3,057.78
3/31/2009	Charles Medford	\$2,486.00

Opened April 1, 2009  
Claire C. Stewart  
Julie Davis, witness

1233 N. Main Street, Box 11 • Waynesville, North Carolina 28786  
(828) 452-6789 • Fax (828) 452-3351

## Request For Proposal Property Lease

Haywood County is seeking proposals for the lease of approximately 22 acres it owns. The property is described at PIN #607-27-9452 and is off Highway 276 near Potts Drive in the Jonathan Creek area. The lease will be for a term of one year and is limited to cultivation activities.

To review a copy of the proposed lease terms, contact:  
Claire C. Stewart, Director  
Haywood County Recreation & Parks  
1233 N. Main Street, Box 11  
Waynesville, NC 28786  
452-6789 x2115

Written bids must be received by Ms. Stewart prior to  
April 1, 2009.



I would like to continue to grow corn and wheat on the 22 acres tract of land on Jonathan Creek. I am willing to bid 3,057.78 for the 22 acres. Please notify me when a decision has been made one way or the other at 828-734-3657

Thanks, *Dan Ross*

**Medford Dairy Farm**

52 Joe Medford Road  
Waynesville, NC 28785  
828-627-6766 (office)  
828-593-9230 (cell)

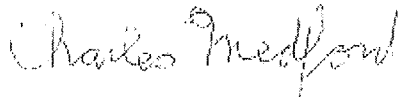
March 30, 2009

1233 North Main Street Box 11  
Waynesville, NC 28786

To Whom It May Concern:

I am very interested in leasing the 22 acres of property located in the Jonathon Creek area. My bid for this property is \$113.00 per acre for one years lease for a total of \$2,486.00. I would use the land to grow corn silage and small grain hay for my own farm's use. If you have any questions or concerns please feel free to contact me anytime at 828-627-6766 or 828-593-9230.

Sincerely,



Charles Medford  
Owner/Manager



**PROPERTY LEASE**

NORTH CAROLINA

HAYWOOD COUNTY

**THIS LEASE AGREEMENT** (this "Lease"), made and entered into this 1<sup>st</sup> day of June, 2010, by and between HAYWOOD COUNTY, a subdivision of the State of North Carolina and a body politic and corporate ("Lessor") and **Charles Frank Medford and (wife) Sarah S. Medford:**

W I T N E S S E T H:

WHEREAS, Lessor acquired the real estate described on Appendix I, attached hereto and incorporated herein by reference (the "Premises"); and

WHEREAS, Lessor intends to own the property perpetually and to eventually develop the Premises as a sports complex; and

WHEREAS, Lessee desires to lease the Premises and has offered to keep and maintain the same as open space or wetlands management use including cultivation; and

WHEREAS, Lessor has agreed to lease the Premises to Lessee subject to the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the rent stated herein and the covenants, terms, and conditions hereinafter set forth, Lessor does hereby let, lease, and demise unto Lessee and Lessee does hereby rent and lease from Lessor the Premises described on Appendix I.

This Lease is executed upon the following terms and conditions:

1. **Term.** The term of this Lease shall commence on the **1st day of June, 2010** (the "Commencement Date") and, unless sooner terminated as herein provided, shall exist and continue until the **31st day of May, 2011** (the "Expiration Date"); provided, however, notwithstanding any other provision of this Lease, Lessor shall have the right to terminate this Lease at any time upon not less than seven (7) days written notice to Lessee. Such notice of termination shall specify a termination date, which shall not be less than seven (7) days from the date the notice is given, and this Lease shall terminate on the date so specified.
2. **Rent.** Lessee shall pay rent to Lessor in the amount of **\$1,980.00** for the use of the Premises.
3. **Renewal.** This Lease shall be renewable for successive terms as agreed to by the parties hereto.
4. **Lessor's Obligations.** Lessor is leasing the Premises to Lessee in "as is condition" and

makes no representations, express or implied, that the Premises is suitable for the use permitted by this Lease, or any other use. Lessor shall have no obligation of any kind, sort, or nature with regard to the Premises, nor shall Lessor have any obligation to make any payment or invest any money in, or take any other action with respect to the Premises.

5. Use of the Premises. The Premises are to be used and occupied by Lessee solely as open space and wetlands management use including cultivation and for no other purpose. Lessee shall at all times fully and properly comply with all laws, ordinances, and regulations governing the use of the Premises enacted or adopted by every lawful authority having jurisdiction over the same. Lessor reserves the right and privilege to enter upon and use the Premises for planning, engineering, and/or for other purposes not inconsistent with the aforesaid use of the Premises.

6. Rules Governing the Use of the Premises. The following rules and regulations shall govern the use of the Premises by Lessee:

(a) Lessee shall not erect any building, fencing, or structure on the Premises or install any impervious surface, including, without limitation, a paved area or a concrete pad.

(b) Lessee shall not erect or post any signs on the Premises, except for "No Trespassing" signs.

(c) Lessee shall not excavate any soil or other surface or subsurface material from the Premises, and shall not dig holes or otherwise change the surface thereof; provided, however, notwithstanding the foregoing Lessor agrees that Lessee may have and maintain a personal garden or other cultivation on the Premises.

(d) Lessee shall not remove any tree, other natural growth, or any natural object from the Premises unless first approved in writing by Lessor, which approval may be withheld in Lessor's sole discretion.

(e) Lessee shall not build any fires or permit any burning on the Premises and shall not cause or permit any use that will in any way increase the possibility of fire or other casualty, nor shall Lessee allow or permit the use of any firearms or explosives on the Premises.

(f) Lessee shall not cause or permit any improper noises on the Premises or allow any unpleasant odors to emanate from the Premises or otherwise annoy in any way other residents in the area.

(g) Lessee shall not alter the topography of Premises in any way and shall not fill in any part of the Premises with any material, including, without limitations, dirt, rocks, or brush.

(h) Lessee shall not cause or permit Hazardous Material (as hereinafter defined) to be brought upon, kept or used in and about the Premises by Lessee, his/her, or their agents, employees, contractors, or invitees. As used herein the term "Hazardous Material" means any hazardous or toxic substance, material or waste, including, but not limited to, those substances, materials, and waste listed in the United States Department of Transportation Hazardous Materials Table (49 CFR 172.01) or by the Environmental Protection Agency as hazardous substance pursuant to the Comprehensive Environmental Response, Compensation and Liability



Act of 1980 as amended (42 U.S.C. § 9601 et seq.), and any regulations promulgated thereunder and amendments thereto, and shall include all substances, materials, and waste that are or become regulated under any other applicable local, state, or federal law. Hazardous Material shall also extend to and include any substances prohibited under standard forms of fire insurance policy.

(i) Lessee shall not use the Premises in any way that is inconsistent with real estate held as vacant, open space.

(j) Lessee shall not use the Premises for the purpose of housing or maintaining animals.

7. Assignment or Sublease. Lessee shall not voluntarily (i) assign or in any manner transfer this Lease or any estate or interest therein, (ii) permit any assignment of this Lease or any estate or interest therein by operation of law or otherwise, (iii) sublet the Premises or any part thereof, (iv) grant any license, concession or other right of occupancy of any portion of the Premises, or (v) permit the use of the Premises by any parties, other than Lessee. Lessee shall not mortgage, pledge or otherwise encumber Lessee's interest in this Lease or in the Premises.

8. Release and Indemnity. To the fullest extent permitted by law, Lessee shall release, indemnify, keep and save harmless Lessor, Lessor's agents, officials, and employees, from any and all responsibility or liability for any and all damage or injury of any kind or nature whatever (including death resulting therefrom) to all persons, whether agents, officials, and employees of Lessor, Lessee, or third persons, and to all property (including the property of Lessee) caused by, instituted, resulting from, rising out of, or accruing in connection with, directly or indirectly, the use or occupancy of the Premises by Lessee (or by any person who may be acting for Lessee or for whom Lessee is or is alleged to be in any way responsible), whether such claim may be based in whole or in part upon contract, tort (including alleged active or passive negligence or participation in the wrong), or upon any alleged breach of any duty or obligation on the part of Lessee, Lessee's agents, employees, or invitees, or otherwise. The provisions of this paragraph shall include any claim for equitable relief or damages (compensatory or punitive) against Lessor, Lessor's agents, officials, and employees, including alleged injury to the business of any claimant and shall include any and all losses, damages, injuries, settlements, judgments, decrees, awards, fines, penalties, claims, cost, and expenses. Expenses as used herein shall include, without limitation, the cost incurred by Lessor, Lessor's agents, officials, and employees, in connection with investigating any claim or defending any action, and shall also include attorneys' fees by reason of the assertion of any such claim against Lessor, Lessor's agents, officials, or employees. Lessee expressly understands and agrees that any insurance protection required by this Lease, or otherwise provided by Lessee, will in no way limit Lessee's responsibility to release, indemnify, keep and save harmless and defend Lessor as provided herein. The intention of the parties is to apply and construe this Release and Indemnity broadly in favor of Lessor.

9. Default. Lessee's failure to (i) use the Premises as provided in the Lease, (ii) comply with the rules and regulations governing of the use of the Premises, (iii) provide and keep in force the required insurance, or (iv) comply with any other term or condition of this Lease shall

constitute an Event of Default. Upon the occurrence of an Event of Default Lessor shall notify Lessee in writing of such default and if the Event of Default has not been cured or corrected within fifteen (15) days of the giving of such notice this Lease shall automatically terminate.

10. Notices. All notices given hereunder shall be made in writing. Such notices shall be deemed given when personally delivered or deposited in the United States mail, certified or registered mail, postage prepaid, addressed to the respective party at the address shown below unless a different address shall have been provided in writing:

If to Lessor: Haywood County  
215 North Main Street  
Waynesville, North Carolina 28786  
Attention: Marty Stamey, Assistant County Manager

If to Lessee: Mr. and Mrs. Charles and Sarah Medford  
52 Joe Medford Road  
Waynesville, NC 28785

11. No Waiver. Lessor's failure to enforce or delay in enforcing any of the provisions, rights, or remedies in this Lease shall not be a waiver nor in any way affect the validity of this Lease or any part hereof, or the right of Lessor to enforce each and every provision, right, or remedy contained herein. No waiver of any breach of any provision of this Lease shall be held to be a waiver of any other subsequent breach of the same or any other provision.

12. Entire Agreement. This Lease sets forth all of the covenants, promises, agreements, conditions, and understandings between Lessor and Lessee concerning the Premises. Lessee shall make no claim on account of any alleged representations contained in prior discussions, correspondence, or other documents, not set forth in this Lease. This Lease shall not be altered, amended, or changed except by a written document executed by Lessor and Lessee.

13. Time is of the essence. Time is of the essence of this Lease and the performance of all obligations hereunder.

STATE OF NORTH CAROLINA

COUNTY OF HAYWOOD

I, Rebecca Morgan a Notary of said State and County, do hereby certify that MARTY STAMEY, personally appeared before me this day and acknowledged that he is Clerk to the Board of County Commissioners of Haywood County, a body politic and corporate, and that by authority duly given and as the act of the said Board, the foregoing instrument was signed in its name by its Chairman, sealed with its corporate seal and attested by himself as its Clerk.

WITNESS my hand and official seal this the 1<sup>st</sup> day of June, 2010.

Rebecca Morgan  
Notary Public

Rebecca Morgan  
Printed Name of Notary Public

My Commission Expires:

4/17/13  
[Official Seal]

APPENDIX I

LEASE BETWEEN COUNTY OF HAYWOOD AND

Being the property described as follows

BEGINNING at an iron stake set (being a metal fence post) at the Western right-of-way of Jonathan Creek Road (U.S. Hwy. 276) which iron stake lies North 17-12-52 East 98.39 feet from NCGS Monument "TRIT" (NCGS Monument "MULE" lies North 28-55-44 East 2,988.07 feet from "TRIT") and runs North 67-31-37 West 839.22 feet (passing through a new iron stake [metal fence post] at 793.82 feet) to a point in the center of Jonathan Creek; thence with Jonathan Creek, as it meanders, seven calls: (1) North 22-10-24 East 99.48 feet, (2) North 39-58-40 East 213.22 feet, (3) North 36-12-48 East 447.36 feet, (4) North 71-28-35 East 204.98 feet, (5) North 52-50-46 East 276.30 feet, (6) North 43-16-11 East 217.77 feet, and (7) North 45-41-53 East 287.26 feet to a point on the Northern edge of a steel and timber bridge spanning the creek, being the Westmost corner of the Thomas Bryan Medford lot described in Deed Book 327 at Page 50; thence with the Southerly margin of that Lot and his adjoining Lot described in Deed Book 419 at 1163, and a tract belonging to John Michael Medford (461/82) South 43-56-43 East 354.68 feet (running generally along Pitts Drive) to an iron pin set in the Westerly margin of the right-of-way of Jonathan Creek Road where Potts Drive intersects with said Road; thence with said right-of-way seven calls: (1) South 29-03-53 West 10.12 feet to the South edge of Potts Drive; (2) continuing South 29-03-53 West 41.23 feet, crossing a 40-foot Drainage Easement belonging to the N.C.D.O.T. as described in Deed Book 238, Page 596, said easement running parallel with Potts Drive, (3) continuing South 29-03-53 West 105.07 feet to a concrete R/W Monument; (4) South 29-04-39 West 701.26 feet to another concrete R/W Monument, (5) South 29-06-56 West 145.77 feet, (6) South 28-30-20 West 153.38 feet, and (7) a curve to the left (Radius 2,661.48 feet a linear distance of 286.88 feet (Chord South 24-17-56 West 286.74 feet) to the BEGINNING, containing 22.091 acres, per survey and plat of L. Kevin Ensley, PLS, dated March 23, 2007, entitled "Survey for William Lucius Jones" and identified as Job B-005-07.

SUBJECT TO the aforesaid USDOT Drainage Easement and the easement for Potts Drive as the same exists, and the rights of various persons, if any, to take water from Jonathan Creek.

This property is located within a Flood Zone.

Reference: Will Book 4 Page 431; Deed Book 75 Page 184 Tract 1; Deed Book 122, Page 637

STATE OF NORTH CAROLINA

COUNTY OF HAYWOOD

I, the undersigned, a Notary Public of the aforesaid County and State, do hereby certify that **Sarah S. Medford** personally appeared before me this day and acknowledged the due execution of the foregoing Lease Agreement.

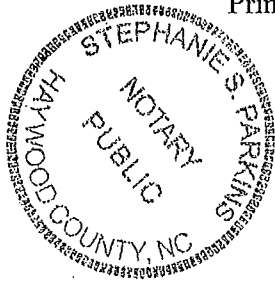
Witness my hand and official stamp or seal, this 3<sup>rd</sup> day of June, 2010.

Stephanie S Parkins  
Notary Public

Stephanie S Parkins  
Printed Name of Notary Public

My Commission Expires:

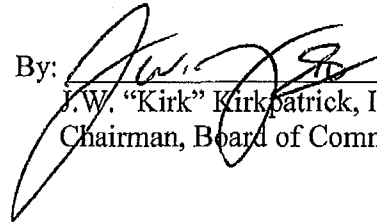
2/27/2011  
[Official Seal]



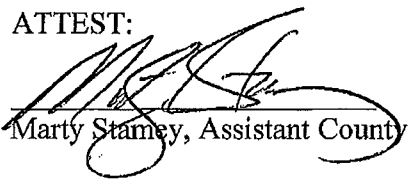
IN WITNESS WHEREOF, Lessor and Lessee have executed this Lease as of the day and year first written above.

LESSOR:

HAYWOOD COUNTY

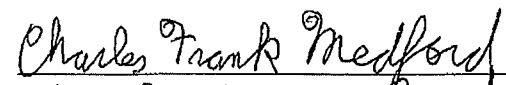
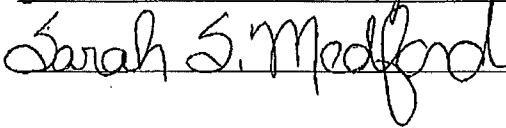
By:   
J.W. "Kirk" Kirkpatrick, III,  
Chairman, Board of Commissioners

ATTEST:

  
Marty Stamey, Assistant County Manager

(SEAL)

LESSEE:

 (SEAL)  
 (SEAL)

STATE OF NORTH CAROLINA

COUNTY OF HAYWOOD

I, the undersigned, a Notary Public of the aforesaid County and State, do hereby certify that **Charles Frank Medford** personally appeared before me this day and acknowledged the due execution of the foregoing Lease Agreement.

Witness my hand and official stamp or seal, this 3<sup>rd</sup> day of June, 2010.

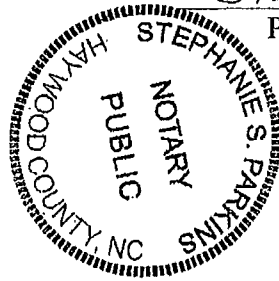
Stephanie S Parkins  
Notary Public

Stephanie S Parkins  
Printed Name of Notary Public

My Commission Expires:

2/27/2011

[Official Seal]







***PROPERTY LEASE***

NORTH CAROLINA

HAYWOOD COUNTY

**THIS LEASE AGREEMENT** (this "Lease"), made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2009, by and between HAYWOOD COUNTY, a subdivision of the State of North Carolina and a body politic and corporate ("Lessor") and **Dan William Ross and (wife) Rhonda J. Ross:**

W I T N E S S E T H:

WHEREAS, Lessor acquired the real estate described on Appendix I, attached hereto and incorporated herein by reference (the "Premises"); and

WHEREAS, Lessor intends to own the property perpetually and to eventually develop the Premises as a sports complex; and

WHEREAS, Lessee desires to lease the Premises and has offered to keep and maintain the same as open space or wetlands management use including cultivation; and

WHEREAS, Lessor has agreed to lease the Premises to Lessee subject to the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the rent stated herein and the covenants, terms, and conditions hereinafter set forth, Lessor does hereby let, lease, and demise unto Lessee and Lessee does hereby rent and lease from Lessor the Premises described on Appendix I.

This Lease is executed upon the following terms and conditions:

1. Term. The term of this Lease shall commence on the **1st day of June, 2009** (the "Commencement Date") and, unless sooner terminated as herein provided, shall exist and continue until the **31st day of May, 2010** (the "Expiration Date"); provided, however, notwithstanding any other provision of this Lease, Lessor shall have the right to terminate this Lease at any time upon not less than seven (7) days written notice to Lessee. Such notice of termination shall specify a termination date, which shall not be less than seven (7) days from the date the notice is given, and this Lease shall terminate on the date so specified.
2. Rent. Lessee shall pay rent to Lessor in the amount of **\$3,057.78** for the use of the Premises.
3. Renewal. This Lease shall be renewable for successive terms as agreed to by the parties hereto.
4. Lessor's Obligations. Lessor is leasing the Premises to Lessee in "as is condition" and

makes no representations, express or implied, that the Premises is suitable for the use permitted by this Lease, or any other use. Lessor shall have no obligation of any kind, sort, or nature with regard to the Premises, nor shall Lessor have any obligation to make any payment or invest any money in, or take any other action with respect to the Premises.

5. Use of the Premises. The Premises are to be used and occupied by Lessee solely as open space and wetlands management use including cultivation and for no other purpose. Lessee shall at all times fully and properly comply with all laws, ordinances, and regulations governing the use of the Premises enacted or adopted by every lawful authority having jurisdiction over the same. Lessor reserves the right and privilege to enter upon and use the Premises for planning, engineering, and/or for other purposes not inconsistent with the aforesaid use of the Premises.

6. Rules Governing the Use of the Premises. The following rules and regulations shall govern the use of the Premises by Lessee:

(a) Lessee shall not erect any building, fencing, or structure on the Premises or install any impervious surface, including, without limitation, a paved area or a concrete pad.

(b) Lessee shall not erect or post any signs on the Premises, except for "No Trespassing" signs.

(c) Lessee shall not excavate any soil or other surface or subsurface material from the Premises, and shall not dig holes or otherwise change the surface thereof; provided, however, notwithstanding the foregoing Lessor agrees that Lessee may have and maintain a personal garden or other cultivation on the Premises.

(d) Lessee shall not remove any tree, other natural growth, or any natural object from the Premises unless first approved in writing by Lessor, which approval may be withheld in Lessor's sole discretion.

(e) Lessee shall not build any fires or permit any burning on the Premises and shall not cause or permit any use that will in any way increase the possibility of fire or other casualty, nor shall Lessee allow or permit the use of any firearms or explosives on the Premises.

(f) Lessee shall not cause or permit any improper noises on the Premises or allow any unpleasant odors to emanate from the Premises or otherwise annoy in any way other residents in the area.

(g) Lessee shall not alter the topography of Premises in any way and shall not fill in any part of the Premises with any material, including, without limitations, dirt, rocks, or brush.

(h) Lessee shall not cause or permit Hazardous Material (as hereinafter defined) to be brought upon, kept or used in and about the Premises by Lessee, his/her, or their agents, employees, contractors, or invitees. As used herein the term "Hazardous Material" means any hazardous or toxic substance, material or waste, including, but not limited to, those substances, materials, and waste listed in the United States Department of Transportation Hazardous Materials Table (49 CFR 172.01) or by the Environmental Protection Agency as hazardous substance pursuant to the Comprehensive Environmental Response, Compensation and Liability

Act of 1980 as amended (42 U.S.C. § 9601 et seq.), and any regulations promulgated thereunder and amendments thereto, and shall include all substances, materials, and waste that are or become regulated under any other applicable local, state, or federal law. Hazardous Material shall also extend to and include any substances prohibited under standard forms of fire insurance policy.

(i) Lessee shall not use the Premises in any way that is inconsistent with real estate held as vacant, open space.

(j) Lessee shall not use the Premises for the purpose of housing or maintaining animals.

7. Assignment or Sublease. Lessee shall not voluntarily (i) assign or in any manner transfer this Lease or any estate or interest therein, (ii) permit any assignment of this Lease or any estate or interest therein by operation of law or otherwise, (iii) sublet the Premises or any part thereof, (iv) grant any license, concession or other right of occupancy of any portion of the Premises, or (v) permit the use of the Premises by any parties, other than Lessee. Lessee shall not mortgage, pledge or otherwise encumber Lessee's interest in this Lease or in the Premises.

8. Release and Indemnity. To the fullest extent permitted by law, Lessee shall release, indemnify, keep and save harmless Lessor, Lessor's agents, officials, and employees, from any and all responsibility or liability for any and all damage or injury of any kind or nature whatever (including death resulting therefrom) to all persons, whether agents, officials, and employees of Lessor, Lessee, or third persons, and to all property (including the property of Lessee) caused by, instituted, resulting from, rising out of, or accruing in connection with, directly or indirectly, the use or occupancy of the Premises by Lessee (or by any person who may be acting for Lessee or for whom Lessee is or is alleged to be in any way responsible), whether such claim may be based in whole or in part upon contract, tort (including alleged active or passive negligence or participation in the wrong), or upon any alleged breach of any duty or obligation on the part of Lessee, Lessee's agents, employees, or invitees, or otherwise. The provisions of this paragraph shall include any claim for equitable relief or damages (compensatory or punitive) against Lessor, Lessor's agents, officials, and employees, including alleged injury to the business of any claimant and shall include any and all losses, damages, injuries, settlements, judgments, decrees, awards, fines, penalties, claims, cost, and expenses. Expenses as used herein shall include, without limitation, the cost incurred by Lessor, Lessor's agents, officials, and employees, in connection with investigating any claim or defending any action, and shall also include attorneys' fees by reason of the assertion of any such claim against Lessor, Lessor's agents, officials, or employees. Lessee expressly understands and agrees that any insurance protection required by this Lease, or otherwise provided by Lessee, will in no way limit Lessee's responsibility to release, indemnify, keep and save harmless and defend Lessor as provided herein. The intention of the parties is to apply and construe this Release and Indemnity broadly in favor of Lessor.

9. Default. Lessee's failure to (i) use the Premises as provided in the Lease, (ii) comply with the rules and regulations governing of the use of the Premises, (iii) provide and keep in force the required insurance, or (iv) comply with any other term or condition of this Lease shall

constitute an Event of Default. Upon the occurrence of an Event of Default Lessor shall notify Lessee in writing of such default and if the Event of Default has not been cured or corrected within fifteen (15) days of the giving of such notice this Lease shall automatically terminate.

10. Notices. All notices given hereunder shall be made in writing. Such notices shall be deemed given when personally delivered or deposited in the United States mail, certified or registered mail, postage prepaid, addressed to the respective party at the address shown below unless a different address shall have been provided in writing:

If to Lessor: Haywood County  
215 North Main Street  
Waynesville, North Carolina 28786  
Attention: David Cotton, County Manager

If to Lessee: Mr. and Mrs. Dan and Rhonda Ross  
508 Beantown Rd.  
Waynesville, NC 28785

11. No Waiver. Lessor's failure to enforce or delay in enforcing any of the provisions, rights, or remedies in this Lease shall not be a waiver nor in any way affect the validity of this Lease or any part hereof, or the right of Lessor to enforce each and every provision, right, or remedy contained herein. No waiver of any breach of any provision of this Lease shall be held to be a waiver of any other subsequent breach of the same or any other provision.

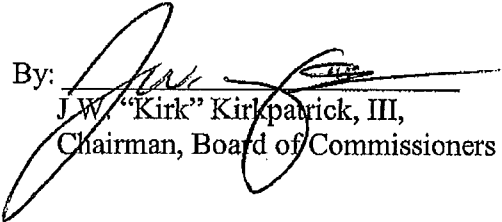
12. Entire Agreement. This Lease sets forth all of the covenants, promises, agreements, conditions, and understandings between Lessor and Lessee concerning the Premises. Lessee shall make no claim on account of any alleged representations contained in prior discussions, correspondence, or other documents, not set forth in this Lease. This Lease shall not be altered, amended, or changed except by a written document executed by Lessor and Lessee.

13. Time is of the essence. Time is of the essence of this Lease and the performance of all obligations hereunder.


IN WITNESS WHEREOF, Lessor and Lessee have executed this Lease as of the day and year first written above.

LESSOR:

HAYWOOD COUNTY

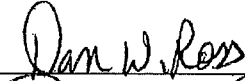
By:   
J.W. "Kirk" Kirkpatrick, III,  
Chairman, Board of Commissioners

ATTEST:

  
David Cotton, County Manager

(SEAL)

LESSEE:

 (SEAL)  
 (SEAL)

STATE OF NORTH CAROLINA

COUNTY OF HAYWOOD

I, Rebecca Morgan a Notary of said State and County, do hereby certify that DAVID COTTON, personally appeared before me this day and acknowledged that he is Clerk to the Board of County Commissioners of Haywood County, a body politic and corporate; and that by authority duly given and as the act of the said Board, the foregoing instrument was signed in its name by its Chairman, sealed with its corporate seal and attested by himself as its Clerk.

WITNESS my hand and official seal this the 1/22<sup>nd</sup> day of April, 2009.

Rebecca Morgan  
Notary Public

Rebecca Morgan  
Printed Name of Notary Public

My Commission Expires:

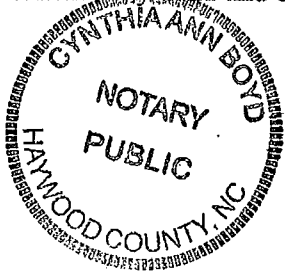
April 17, 2013  
[Official Seal]

STATE OF NORTH CAROLINA

COUNTY OF HAYWOOD

I, the undersigned, a Notary Public of the aforesaid County and State, do hereby certify that **Dan William Ross** personally appeared before me this day and acknowledged the due execution of the foregoing Lease Agreement.

Witness my hand and official stamp or seal, this 20 day of April, 2009.



Cynthia Ann Boyd  
Notary Public

Cynthia Ann Boyd  
Printed Name of Notary Public

My Commission Expires:

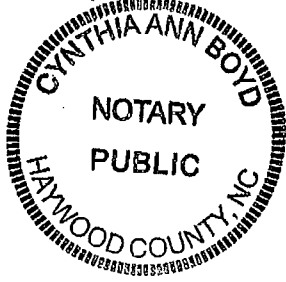
10-14-2012  
[Official Seal]

STATE OF NORTH CAROLINA

COUNTY OF HAYWOOD

I, the undersigned, a Notary Public of the aforesaid County and State, do hereby certify that **Rhonda J. Ross** personally appeared before me this day and acknowledged the due execution of the foregoing Lease Agreement.

Witness my hand and official stamp or seal, this 20 day of April, 2009.



Cynthia Ann Boyd  
Notary Public

Cynthia Ann Boyd  
Printed Name of Notary Public

My Commission Expires:

10-14-2012  
[Official Seal]



APPENDIX I

LEASE BETWEEN COUNTY OF HAYWOOD AND

Being the property described as follows

**BEGINNING** at an iron stake set (being a metal fence post) at the Western right-of-way of Jonathan Creek Road (U.S. Hwy. 276) which iron stake lies North 17-12-52 East 98.39 feet from NCGS Monument "TRIT" (NCGS Monument "MULE" lies North 28-55-44 East 2,988.07 feet from "TRIT") and runs North 67-31-37 West 839.22 feet (passing through a new iron stake [metal fence post] at 793.82 feet) to a point in the center of Jonathan Creek; thence with Jonathan Creek, as it meanders, seven calls: (1) North 22-10-24 East 99.48 feet, (2) North 39-58-40 East 213.22 feet, (3) North 36-12-48 East 447.36 feet, (4) North 71-28-35 East 204.98 feet, (5) North 52-50-46 East 276.30 feet, (6) North 43-16-11 East 217.77 feet, and (7) North 45-41-53 East 287.26 feet to a point on the Northern edge of a steel and timber bridge spanning the creek, being the Westmost corner of the Thomas Bryan Medford lot described in Deed Book 327 at Page 50; thence with the Southerly margin of that Lot and his adjoining Lot described in Deed Book 419 at 1163, and a tract belonging to John Michael Medford (461/82) South 43-56-43 East 354.68 feet (running generally along Pitts Drive) to an iron pin set in the Westerly margin of the right-of-way of Jonathan Creek Road where Potts Drive intersects with said Road; thence with said right-of-way seven calls: (1) South 29-03-53 West 10.12 feet to the South edge of Potts Drive; (2) continuing South 29-03-53 West 41.23 feet, crossing a 40-foot Drainage Easement belonging to the N.C.D.O.T. as described in Deed Book 238, Page 596, said easement running parallel with Potts Drive, (3) continuing South 29-03-53 West 105.07 feet to a concrete R/W Monument; (4) South 29-04-39 West 701.26 feet to another concrete R/W Monument, (5) South 29-06-56 West 145.77 feet, (6) South 28-30-20 West 153.38 feet, and (7) a curve to the left (Radius 2,661.48 feet a linear distance of 286.88 feet (Chord South 24-17-56 West 286.74 feet) to the **BEGINNING**, containing 22.091 acres, per survey and plat of L. Kevin Ensley, PLS, dated March 23, 2007, entitled "Survey for William Lucius Jones" and identified as Job B-005-07.

**SUBJECT TO** the aforesaid USDOT Drainage Easement and the easement for Potts Drive as the same exists, and the rights of various persons, if any, to take water from Jonathan Creek.

This property is located within a Flood Zone.

Reference: Will Book 4 Page 431; Deed Book 75 Page 184 Tract 1; Deed Book 122, Page 637